

January 6, 2004

Honorable Robert G. Card
Under Secretary for Energy, Science
and Environment
U.S. Department of Energy
Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Re: Requests for Extensions of Comment Period on Proposed General Guidelines for
Voluntary Reporting of Greenhouse Gases, 68 Fed. Reg. 68204 (December 5, 2003)

Dear Under Secretary Card:

The Electric Power Industry Climate Initiative (EPICI) respectfully requests extensions of the 60-day public comment period, which is currently scheduled to close February 3, 2004, for the December 5, 2003, "Proposed Rule" (68 *Fed. Reg.* 68204) to revise the General Guidelines for the "Voluntary Reporting of Greenhouse Gases" (GHGs) issued in 1994 by the Department of Energy (DOE) under section 1605(b) of the Energy Policy Act of 1992, 42 U.S.C. § 13385(b).

EPICI is the coalition of seven electric power groups formed to coordinate the power sector's response to President Bush's Global Climate Change Initiative and, through the President's Climate VISION Program, support the President's efforts to reduce the GHG emissions intensity of the U.S. by 18 percent by the end of 2012. EPICI members are: American Public Power Association, Edison Electric Institute, Electric Power Supply Association, Large Public Power Council, National Rural Electric Cooperative Association, Nuclear Energy Institute and Tennessee Valley Authority.

In addition, EPICI members collectively and individually have since 1994 been the major voluntary reporters of GHG reductions under the current section 1605(b) guidelines and likely would improve such reporting under the Climate VISION program, assuming that the final version of the revised guidelines is a substantial improvement over the December 5 proposal. For example, in 2001 the power sector reduced, avoided or sequestered more than 275 million metric tons of carbon dioxide equivalent (MMTCO₂E) GHGs out of total reported reductions of 352 MMTCO₂E, or 78 percent of all reported reductions under section 1605(b).

The primary reason for this request is that the DOE proposal is incomplete, being heavily dependent on the development and publication by DOE for public comment at some unspecified future time of several sets of Technical Guidelines. Also relevant is the

publication for public comment, also at some future date, by DOE's Energy Information Administration (EIA) of the "reporting elements to be contained" in the forms to be used to implement both the revised General Guidelines and Technical Guidelines. Such a piecemeal approach to the revision of the section 1605(b) voluntary guidelines does not afford the EPICI organizations and our member companies a fair and meaningful opportunity to provide public comment.

Throughout the preamble to the proposed General Guidelines, there are numerous examples of reliance by DOE and EIA on Technical Guidelines that apparently have yet to be developed. For example, in preamble section II.O.4, "Emissions and Reductions Associated with Electricity Generation and Use," there are at least three references to Technical Guidelines. In the case of one such reference, which relates to how "entities are to report emissions and emission reductions associated with electricity generation and use," the Technical Guideline, "to be proposed subsequently, will attempt to achieve" three enumerated "objectives" dealing with double counting, conversion factors and proper recognition for reductions. In the case of the other two references, the preamble states that "DOE will specify the factors to be used to convert purchased electricity use" emissions and that DOE "intends to provide, through its Technical Guidelines, clear direction on how to calculate emission reductions associated with the generation and purchase of electricity," while noting that "the specific methodologies and factors to be used have yet to be defined."

In the case of the proposed General Guidelines themselves, there are several references to future Technical Guidelines, which only emphasizes the incomplete nature of the proposal. This is particularly true regarding one of the more critical provisions on "registration standards," namely, proposed § 300.6, titled "Emissions inventories," which specifies that "[e]ntity-wide reports are a prerequisite for the registration of emission reductions by entities with average annual emissions of more than 10,000 tons of CO₂ equivalent." However, the "methods" to be used for such reporting are, according to the proposed section, expressly left to be "specified" in Technical Guidelines "to be issued subsequently." While designated as "Technical," such guidelines obviously have significant substantive implications for future users of the revised guidelines.

Clearly, the "Technical Guidelines" are an important and integral part of the revision of the section 1605(b) guidelines. Yet it is our understanding that several sets of Technical Guidelines are not likely to be developed and proposed for public comment until sometime after the current February 3, 2004, closing date for comment on the General Guidelines. In fact, we understand that adoption of the General Guidelines could possibly occur before the Technical Guidelines are proposed for comment, although the former apparently would not be effective until the latter are adopted. This would not be a wise course, particularly since commenters on the General Guidelines may want to change, adjust or expand on their comments once they review the Technical Guidelines.

Another important reason for requesting an extension of the February 3, 2004, comment deadline is that DOE uses the preamble expressly to solicit public comments or otherwise to raise a number of questions for which "DOE specifically requests comments" by February 3,

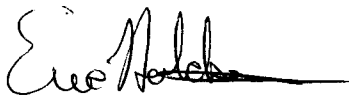
2004 (see, e.g., preamble sections II.B, "Defining Reporting Entities" and II.0.7, "International Emission Reductions"). However, interspersed within this 60-day public comment period are three national holiday periods, plus the DOE-scheduled January 12, 2004, public workshop day, which, while welcome, nevertheless requires that participants use part of the period leading up to January 12 to prepare for such participation, thus reducing the time available to prepare responsive written comments.

Under these circumstances, requests for extensions of the public comment period are eminently reasonable. **First, a minimum 60-day extension is necessary to provide our preliminary comments on the proposed General Guidelines, which are conceptual in nature and raise numerous policy concerns. Second, although DOE may wish to encourage preliminary comments by February 3 – or 60 days later in accordance with our first request -- the comment period for the General Guidelines should remain open until a reasonable time after the close of the last comment period for the several sets of proposed Technical Guidelines. This would allow commenters on the General Guidelines to have a fair opportunity after the Technical Guidelines are proposed to change, adjust and expand on their preliminary comments. Moreover, DOE would have the benefit of these additional comments before finalizing both the General Guidelines and the Technical Guidelines.** In other words, comments on the proposed General and Technical Guidelines should be comprehensive and interrelated, not piecemeal and disjoint. Clearly, the revised General Guidelines should not be adopted and made effective until the Technical Guidelines are developed and are also ready to be adopted or finalized and made effective.

While we certainly recognize the desirability for revision of the current section 1605(b) guidelines as directed by the President in February 2002 and initiated by DOE in May 2002, there is no apparent urgency for development and public consideration of the proposed General and Technical Guidelines on separate tracks, because the current guidelines remain in effect at least until superseded by the revised guidelines. Moreover, it is obvious that the proposed DOE schedule for adoption of the guidelines in January 2004 cannot be achieved.

EPICI makes this request early in the public comment period and would appreciate your early agreement to it. We look forward to continuing to work with DOE and EIA in the development of the revised guidelines.

Sincerely,


for Lee Ann Kozak

Co-chair, Accounting and Reporting Committee
Electric Power Industry Climate Initiative

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